

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, August 11, 2020
Place: Department B – Courtroom #13
Fresno, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 AM

1. [20-10800](#)-B-11 **IN RE: 4-S RANCH PARTNERS, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
3-2-2020 [[1](#)]

RENO FERNANDEZ/ATTY. FOR DBT.

NO RULING.

2. [20-10800](#)-B-11 **IN RE: 4-S RANCH PARTNERS, LLC**
[MF-3](#)

AMENDED CHAPTER 11 DISCLOSURE STATEMENT
7-15-2020 [[145](#)]

RENO FERNANDEZ/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Approved.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

It does not appear that a notice of hearing was filed and served along with the disclosure statement. Nevertheless the hearing was set for this calendar and the motion will be deemed to be set on less than 28 days' notice under Local Rule of Practice 9014-1(f)(2). Unless opposition is presented at the hearing, the court intends to approve the disclosure statement.

3. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**
[SMK-1](#)

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES
4-10-2020 [\[78\]](#)

HELENA AGRI-ENTERPRISES, LLC/MV
PETER FEAR/ATTY. FOR DBT.
STEVEN KOCH/ATTY. FOR MV.
WITHDRAWN

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #200.

4. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A**
CALIFORNIA LOCAL HEALTH CARE DISTRICT
[WJH-12](#)

OMNIBUS OBJECTION TO CLAIMS
6-25-2020 [\[588\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained as to priority status only.

ORDER: Objector shall submit an order conforming to
this ruling.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be

taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

Coalinga Regional Medical Center ("Debtor") filed this omnibus objection to claims asking the court to disallow 12 claims as priority claims under 11 U.S.C. § 507. The debtor requests the claims be allowed as general unsecured claims.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000). The proof of claim itself is "'strong enough to carry over a mere formal objection without more,'" but the objector may defeat the claim "with sufficient evidence" that "'show[s] facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (citations omitted). The ultimate burden of persuasion remains at all times upon the claimant. Id. (citing In re Holm, 931 F.2d 620, 623 (9th Cir. 1991)).

These claims were filed as priority claims under 11 U.S.C. § 507. This is a Chapter 9 case. Under Chapter 9, only claims that qualify for priority under 11 U.S.C. § 507(a)(2) are entitled to priority. That subsection provides administrative claims, certain claims under title 28 of the U. S. Code, and certain unsecured claims of the Federal Reserve bank are deemed priority.

The debtor argues these claims do not qualify under § 507(a)(2). The claims do not appear to qualify for priority status in a Chapter 9 case. There is no opposition.

The omnibus objection is SUSTAINED. The claims that are the subject of this objection shall be disallowed as priority claims but allowed as general unsecured claims.

5. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A
CALIFORNIA LOCAL HEALTH CARE DISTRICT
[WJH-13](#)**

OBJECTION TO CLAIM OF DEPARTMENT OF HEALTH CARE SERVICES, CLAIM
NUMBER 34
6-26-2020 [\[611\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained.

ORDER: Objector shall prepare and submit an order
consistent with this ruling.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

Coalinga Regional Medical Center ("Debtor"] objects to allowance of a claim filed by the California Department of Health Care Services ("DHCS") in the amount of \$53,127.02. The claim (no. 34) states it is "subject to recoupment from ongoing Medi-Cal reimbursement payments." The claim is for overpayments to the debtor by DHCS for fiscal year 2017-18.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000). The proof of claim itself is “strong enough to carry over a mere formal objection without more,” but the objector may defeat the claim “with sufficient evidence” that “show[s] facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.” Id. (citations omitted). The ultimate burden of persuasion remains at all times upon the claimant. Id. (citing In re Holm, 931 F.2d 620, 623 (9th Cir. 1991)).

The debtor submitted the declaration of Sandra Earls, Debtor’s CFO, supporting the objection. Ms. Earls testifies that the claim was satisfied by “holdbacks” administered by DHCS on May 14, 2019 and June 20, 2019. Doc. #613. The evidence is sufficient to overcome the presumption of validity for a properly filed proof of claim. See Fed. R. Bankr. P. 3001(f). There is no opposition.

The objection is SUSTAINED. Claim number 34 is disallowed in its entirety.

6. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL HEALTH CARE DISTRICT**
[WJH-14](#)

OBJECTION TO CLAIM OF EXPERIAN HEALTH, INC., CLAIM NUMBER 9
6-26-2020 [\[606\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained.

ORDER: Objector shall prepare and submit an order conforming to this ruling.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

This objection was set for hearing on 44 days’ notice as required by Local Rule of Practice (“LBR”) 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in

interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

Coalinga Regional Medical Center ("Debtor") objects to the allowance of claim number 9 filed by Experian Health, Inc. formerly known as Passport Health Communications, Inc. ("Experian"). The claim is for \$51,012.00. Claim 9-1, doc. #609. The consideration for the claim is various subscription and data services provided to the Debtor by Experian under certain agreements. Id.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000). The proof of claim itself is "strong enough to carry over a mere formal objection without more," but the objector may defeat the claim "with sufficient evidence" that "show[s] facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." Id. (citations omitted). The ultimate burden of persuasion remains at all times upon the claimant. Id. (citing In re Holm, 931 F.2d 620, 623 (9th Cir. 1991)).

Supporting the objection, Debtor submits the declaration of its' CFO, Sandra Earls. Ms. Earls testifies that the claim is not consistent with the Debtor's books and records. Those records purport to establish the claim was paid. Though the testimony is hearsay, there is no opposition. The debtor's evidence overcomes the presumption of validity of a properly filed claim under Fed. R. Bankr. P. 3001(f).

The objection is SUSTAINED. Claim number 9 is disallowed in its' entirety.

7. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A
CALIFORNIA LOCAL HEALTH CARE DISTRICT
[WJH-15](#)**

OMNIBUS OBJECTION TO CLAIMS
6-26-2020 [\[601\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained.

ORDER: Objector to prepare and submit an order
conforming to this ruling.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

Coalinga Regional Medical Center ("Debtor") objects to two claims filed by Ally Bank. Each claim relates to a balance due on Automobile Sales Finance Agreements for the purchase of two Dodge vans in 2016. Claim number 6 is in the amount of \$25,238.00. Doc. #604. Claim 24 is in the amount of \$25,239.98. Id. Both claims appear to be for contract balances; not deficiencies following foreclosure sale.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000). The proof of claim itself is "strong enough to carry over a mere formal objection without more," but the objector may defeat the claim "with sufficient evidence" that "show[s] facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (citations omitted). The ultimate burden of persuasion remains at all times upon the claimant. Id. (citing In re Holm, 931 F.2d 620, 623 (9th Cir. 1991)).

The declaration of Debtor's "interim" CFO, Sandra Earls and copies of the claims is the evidence supporting the objection. Ms. Earls testifies that both secured claims should be disallowed, and that the debtor has no liability for the amounts stated on the claims. Ms. Earls states the vans have been returned but she does not state when they were returned or who accepted the returned vehicles. The evidence does not contain receipts that the vehicles were returned.

Despite the incomplete record, there has been no opposition filed. There may be a deficiency owed on the contracts, but the filed claims do not appear to be allowable. There is uncontradicted testimony the vans were returned. There may be further litigation on these claims if the creditor seeks reconsideration under Fed. R. Bankr. P. 3008.

The objection is SUSTAINED.

8. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A
CALIFORNIA LOCAL HEALTH CARE DISTRICT
[WJH-16](#)**

OBJECTION TO CLAIM OF ORTHO CLINICAL DIAGNOSTICS, INC., CLAIM
NUMBER 115
6-26-2020 [\[597\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained.

ORDER: Objector shall prepare and submit an order
conforming with this ruling.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer

employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

Coalinga Regional Medical Center ("Debtor") objects to the allowance of claim 115 filed by Ortho Clinical Diagnostics, Inc. ("Ortho"). The claim was supported by almost 80 pages of invoices showing Debtor's purchase of various medical supplies. The claim amount is \$13,548.51.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000). The proof of claim itself is "'strong enough to carry over a mere formal objection without more,'" but the objector may defeat the claim "with sufficient evidence" that "'show[s] facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (citations omitted). The ultimate burden of persuasion remains at all times upon the claimant. Id. (citing In re Holm, 931 F.2d 620, 623 (9th Cir. 1991)).

Debtor contends Ortho's claim was filed after the bar date set by the court. The debtor submitted no evidence supporting the objection except a copy of Ortho's proof of claim. The Debtor did not ask the court to take judicial notice of any fact under Fed. R. Evid. 201. But, the court can take judicial notice of adjudicative facts on its own at any stage of the proceeding. Fed. R. Evid. 201(c)(1), (d).

The court takes judicial notice of the following adjudicative facts:

- The court set a claims bar date of April 12, 2019 by order dated February 15, 2019. Doc. #111.
- A notice of bar date was sent to creditors on February 19, 2019 (doc. #112) and published in the *Fresno Bee* February 22, 2019 (doc. #114).
- Ortho's proof of claim number 115 was filed May 2, 2019.
- May 2, 2019 is 20 days after the bar date.
- The docket does not reflect a court order permitting Ortho to file a late claim.

The claim is not timely filed and under 11 U.S.C. § 502(b)(9) (applicable in Chapter 9 cases 11 U.S.C. § 901(a)). The claim is disallowed.

The objection is SUSTAINED.

9. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A
CALIFORNIA LOCAL HEALTH CARE DISTRICT
[WJH-17](#)**

OBJECTION TO CLAIM OF DEPARTMENT OF HEALTH CARE SERVICES, CLAIM
NUMBER 33
6-26-2020 [\[592\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained

ORDER: Objector shall prepare and submit an order
conforming to this ruling.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned

parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The California Department of Health Care Services ("DHCS") timely filed proof claim 33 for Medi-Cal overpayments for fiscal years 2015 and 2016. The claim also purports to include overpayments for fiscal years 2017 and 2018. But when this claim was filed, the amounts for the two latter years was undetermined. The liquidated amount of the claim is \$68,902.00. The claim also states: "The claim is subject to a right of recoupment from ongoing Medi-Cal reimbursement payments."

Coalinga Regional Medical Center ("Debtor") objects to allowance of the claim. Doc. #593. Debtor contends the claim has been paid by DHCS's "holdbacks" in June 2017 and August 2018. Doc. #594.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000). The proof of claim itself is "'strong enough to carry over a mere formal objection without more,'" but the objector may defeat the claim "with sufficient evidence" that "'show[s] facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (citations omitted). The ultimate burden of persuasion remains at all times upon the claimant. Id. (citing In re Holm, 931 F.2d 620, 623 (9th Cir. 1991)).

Debtor's CFO, Sandra Earls, submitted a declaration supporting the objection. Doc. #594. She testifies that she has personal knowledge the claim was paid by the summer of 2017 and 2018 "holdbacks." Though vague, the "holdbacks" must be referring to DHCS exercising their recoupment rights. Notably, the declaration does not address the years in which DHCS overpayment claims, if any, were undetermined when claim 33 was filed (2017 and 2018).

There is no opposition. Ms. Earls' declaration overcomes the presumption of validity of the claim under Fed. R. Bankr. P. 3001(f).

The objection is SUSTAINED.

10. [20-11992](#)-B-12 **IN RE: CHAR PHAR INVESTMENTS, LLC**

STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION
6-12-2020 [\[1\]](#)

WILLIAM COWIN/ATTY. FOR DBT.

NO RULING.

11. [20-11992](#)-B-12 **IN RE: CHAR PHAR INVESTMENTS, LLC**
[WLC-3](#)

MOTION TO EMPLOY SHERYL A. STRAIN AS ACCOUNTANT(S)
7-13-2020 [\[34\]](#)

CHAR PHAR INVESTMENTS, LLC/MV
WILLIAM COWIN/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. Pursuant to 11 U.S.C. § 327(a), the trustee may employ, with the court's approval may employ an accountant that does not hold or represent an interest adverse to the estate and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

11 U.S.C. § 1107 gives the debtor-in-possession ("DIP") "all the rights . . . and powers and shall perform all the functions and duties . . . of a trustee serving in a case under this chapter."

The chapter 11 DIP wishes to employ Sheryl A. Strain ("Accountant") to review and analyze financial records, prepare accounting reports, and perform upper level accounting work for the debtor. Doc. #34.

After review of the evidence, and unless any opposition is given at the hearing, the court finds that DIP's proposed accountant does not represent nor hold an adverse interest to the debtor. Doc. #35, 62.

DIP is authorized to employ Accountant for the purposes stated above and in the motion. Monthly applications for interim compensation

pursuant to 11 U.S.C. § 331 will be entertained if the combined fees and expenses sought exceed \$5,000.00.

12. [20-11992](#)-B-12 **IN RE: CHAR PHAR INVESTMENTS, LLC**
[WLC-5](#)

CONTINUED MOTION TO USE CASH COLLATERAL
7-14-2020 [\[45\]](#)

CHAR PHAR INVESTMENTS, LLC/MV
WILLIAM COWIN/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [20-11667](#)-B-7 **IN RE: JAVIER/RUBY AMATON**

PRO SE REAFFIRMATION AGREEMENT WITH HARLEY-DAVIDSON CREDIT CORP
7-15-2020 [[20](#)]

NO RULING.

1:30 PM

1. [20-11506](#)-B-7 **IN RE: BEHNAM ALIMIRZAEI AND SARA TAHERI**
[MMJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-30-2020 [\[16\]](#)

FINANCIAL SERVICES VEHICLE TRUST/MV
D. GARDNER/ATTY. FOR DBT.
MARJORIE JOHNSON/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

This motion relates to an executory contract or lease of personal property. The case was filed on April 28, 2020, and the lease was not assumed by the chapter 7 trustee within the time prescribed in 11 U.S.C. § 365(d)(1). Pursuant to § 365(p)(1), the leased property is no longer property of the estate and the automatic stay under § 362(a) has already terminated by operation of law.

Movant may submit an order denying the motion and confirming that the automatic stay has already terminated on the grounds set forth above. No other relief is granted.

2. [17-11824](#)-B-7 **IN RE: HORISONS UNLIMITED**
[WF-65](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WILKE FLEURY LLP FOR
DANIEL L. EGAN, TRUSTEES ATTORNEY(S)
7-2-2020 [\[1197\]](#)

CECILY DUMAS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not

materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED. Trustee's counsel, Wilke Fleury LLP, requests fees of \$24,751.50 and costs of \$1,880.85 for a total of \$26,632.35 for services rendered from September 1, 2019 through June 30, 2020. Doc. #1197.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Responding to creditor inquiries, (2) Prepared and successfully prosecuted a motion to abandon tangible business records and a separate motion for authority to pay for such destruction, (3) Obtained a default judgment in a preference adversary proceeding, and (4) Administering claims against the estate. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$24,751.50 in fees and \$1,880.85 in costs. This is the final fee application for Trustee's general counsel. The total fees for all applications of \$525,154.50 and costs of \$23,317.35 are approved. The previous five interim awards are therefore approved.

3. 17-14133-B-7 **IN RE: BENJAMIN HARRIS**
PPR-1

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION
7-10-2020 [\[125\]](#)

CARRINGTON MORTGAGE SERVICES, LLC/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
BONNI MANTOVANI/ATTY. FOR MV.
DISCHARGED 8/13/18. RESPONSIVE PLEADING.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part and denied as moot in part.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue the order.

The court must first note movant's procedural error.

Local Rule of Practice 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

Two objections to confirmation of plan were filed over two years ago, using the same DCN, PPR-1. Normally the court denies motions with this error on procedural grounds, but because Debtor responded, the court will consider the matter on its merits.

This motion is DENIED AS MOOT IN PART. The debtor's discharge was entered on August 13, 2018. Doc. #100. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

Movant Carrington Mortgage Services, LLC ("Creditor") seeks to terminate the automatic stay under 11 U.S.C. § 362(d)(1) for cause. Doc. #125. The principal amount owed to Creditor is \$228,781.00, and debtor has missed at least 14 post-petition payments. Doc. #128.

Debtor timely opposed, stating that the "property is in escrow and should close shortly, which will pay off the creditor." Doc. #139. The included estimated closing statement shows that the selling price of \$400,000.00 will completely pay Creditor.

The matter will be called to verify the closing status of the property. The matter may be continued a short time to allow the sale to close.

4. [17-14133](#)-B-7 **IN RE: BENJAMIN HARRIS**
[RSW-2](#)

MOTION TO COMPEL ABANDONMENT
7-28-2020 [\[142\]](#)

BENJAMIN HARRIS/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing approved by the Chapter 7 Trustee.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647 (9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at 16-17 (B.A.P. 9th Cir. 2014).

Debtor asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's residence located at 5350 Judd Street in Bakersfield, CA 93314 ("Property"). The Property is exempted on Schedule C as his homestead for \$100,000.00. Doc. #1. Debtor is selling the Property for \$400,000.00, which will net approximately \$106,000.00. Doc. #144.

Unless opposition is presented at the hearing, the court finds that the Property is burdensome to the estate. The net proceeds from the sale may exceed the homestead exemption or they may not. It would be burdensome to the estate for the Trustee to retain a broker and sell the property with uncertain net sales proceeds.

The debtor has agreed that whatever excess proceeds exist post-sale after payment of liens, other expenses, and the homestead will be paid directly to the chapter 7 trustee.

In the absence of objection, this motion is GRANTED. The order is to be approved by the chapter 7 trustee.

The order shall include a specific list of the property abandoned.

5. [20-12146](#)-B-7 **IN RE: JESSICA ROMERO**
[GB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-14-2020 [\[13\]](#)

CONSUMER PORTFOLIO SERVICES, INC./MV
CATARINA BENITEZ/ATTY. FOR DBT.
ANGIE MARTH/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Consumer Portfolio Services, Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2013 Dodge Dart ("Vehicle"). Doc. #13.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least six pre-petition payments, with the last payment received by movant on November 27, 2019. The movant has produced evidence that debtor is delinquent at least \$1,793.82. Doc. #15,17.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Id. The Vehicle is valued at \$7,075.00 and debtor owes \$8,107.07. Doc. #15.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's Statement of Intention, the Vehicle will be surrendered.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least six pre-petition payments to Movant and the Vehicle is a depreciating asset.

6. [20-12047](#)-B-7 **IN RE: GONZALO HUERTA AND MARIA GOMEZ DE HUERTA**
[ALG-2](#)

MOTION TO COMPEL ABANDONMENT
7-13-2020 [\[14\]](#)

GONZALO HUERTA/MV
JANINE ESQUIVEL OJI/ATTY. FOR DBT.
JANINE ESQUIVEL/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). Doc. #15. LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

7. [19-13048](#)-B-7 **IN RE: CRAIG BREWER**
[JES-4](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
7-10-2020 [\[65\]](#)

JAMES SALVEN/MV
PETER BUNTING/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED. Trustee's accountant, James E. Salven, requests fees of \$1,275.00 and costs of \$242.49 for a total of \$1,517.49 for services rendered from February 19, 2020 through July 8, 2020. Doc. #65.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Conflict review and prepare employment application, (2) Reviewing passport to determine house acquisition date and cost, (3) Analyzing closing statement and inputting data into system, and (4) Processing tax returns and prompt determination letters. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$1,275.00 in fees and \$242.49 in costs.

8. [20-11996](#)-B-7 **IN RE: RODRIGO LUBONG**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-9-2020 [\[17\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV
SCOTT LYONS/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Americredit Financial Services, Inc. dba GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2013 Chevrolet Camaro ("Vehicle"). Doc. #17.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least four pre-petition payments. The movant has produced evidence that debtor is delinquent at least \$1,283.16. Doc. #19, 20.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Id. The Vehicle is valued at \$13,400.00 and debtor owes \$17,176.36. Doc. #19.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's Statement of Intention, the Vehicle will be surrendered.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least four pre-petition payments to Movant and the Vehicle is a depreciating asset.